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A33002-PCT-USA (072667.0124)
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Freyssinet *et al.*
Serial No. : 09/486,094 Examiner : Kubelik, A.
Filed : July 17, 2000 Group Art Unit: 1638 ✓
For : GENE CODING FOR ANDROCTONINE, VECTOR
CONTAINING SAME AND TRANSFORMED DISEASE
RESISTANT PLANTS OBTAINED

**PETITION TO REVIVE APPLICATION
PURSUANT TO 37 C.F.R. § 1.137(b)**

I hereby certify that this paper is being deposited on November 12, 2003 with the United States Postal Service as first class mail in an envelope addressed to:
Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450

Rochelle K. Seide
Attorney Name
Rochelle K Seide
Signature

32,300
PTO Registration No.
November 12, 2003
Date of Signature

Commissioner for Patents
P.O. Box 1450
Mail Stop PETITION
Alexandria VA 22313-1450

Sir:

Applicants respectfully petition to revive the above-identified patent application in accordance with the provisions of 37 U.S.C. §1.137(b) as the abandonment was unintentional, and enclose herewith the required responses and fees, as discussed below.

The present application became abandoned for inadvertent failure to fully respond to an Official Action mailed on February 11, 2003. Subsequent to receiving the Final Office Action of February 11, 2003, Applicants scheduled a telephone interview with

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Examiner Kubelik, which was held on Thursday, June 19, 2003. Based on the interview, Applicants prepared and filed a response to the pending Final Office Action. The response, along with a request for an appropriate two-month extension of time, was submitted on July 11, 2003. Applicants inadvertently failed to file the Notice of Appeal at that time and, moreover, inadvertently failed to file the Notice of Appeal by the full statutory period to respond (August 11, 2003).

However, on October 23, 2003, an Advisory Action was received by Applicants that had been mailed from the United States Patent and Trademark Office on October 20, 2003. Upon receiving this Advisory Action, Applicants attempted to contact Examiner Kubelik to confirm that the instant application was, in fact, abandoned. Although unable to reach Examiner Kubelik, Applicants were able to contact her supervisor, Examiner Nelson, who confirmed that the application had gone abandoned for failure to enter the Applicants' July 11, 2003 amendment prior to the expiration of the statutory period. Examiner Nelson's appraisal was further supported by the Notice of Abandonment, dated November 6, 2003, which was received by Applicants on November 10, 2003.

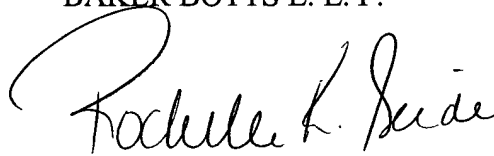
Applicants failure to include a Notice of Appeal with the July 11, 2003 response to the Office Action of February 11, 2003 was unintentional. Having realized the error, Attorneys for Applicants petition to revive the above-identified patent application in accordance with the provisions of 37 U.S.C. §1.137(b). Applicants state that at no time did Applicants or attorneys for Applicants intend to abandon the above-captioned application, and that the entire delay in filing the Notice of Appeal in response to the February 11, 2003 Office Action from the due date of August 11, 2003 until the filing of a grantable petition pursuant to 37 U.S.C. §1.137 was unintentional.

Accompanying this letter are: 1) a Notice of Appeal; 2) an Amendment in reply to the Official Action dated February 11, 2003; 3) a Request for Continued Examination; 4) a Petition to Extend Time; 5) a Transmittal; 6) a Fee Transmittal form; and 7) a check in the amount of \$2,960 representing the \$330 fee for filing of the Notice of Appeal, the \$530 fee for an additional one month extension of time beyond the two month extension for non-small entities paid for on July 11, 2003, the \$770 fee for a Request for Continued Examination, and the \$1,330 fee for the Petition to Revive an Unintentionally Abandoned Application. The Commissioner is hereby authorized to charge any additional fees associated with this communication, or to credit any overpayments made, to Deposit Account 02-4377.

Applicants respectfully request that (i) this promptly filed petition to revive the above-captioned application in accordance with 37 U.S.C. §1.137(b) be granted, (ii) that this revived application be accorded the benefit of its filing date to be deemed pending as of August 11, 2003; and (iii) that the revived application be allowed to continue prosecution.

Respectfully submitted,

BAKER BOTTS L. L. P.

A handwritten signature in dark ink, appearing to read "Rochelle K. Seide", is written over a horizontal line.

Bradley B. Geist

Patent Office Registration No. 27,551

Rochelle K. Seide

Patent Office Reg. No. 32,300

Attorneys for Applicants
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Enclosures